

§ 301.6103(p)(2)(B)-1

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section shall provide that any whistleblower and, if applicable, the legal representative of a whistleblower, who has access to return information under this section, shall comply with the prescribed requirements.

(3) Any whistleblower, or the legal representative of a whistleblower, who may receive return information under this section, shall agree in writing, before any disclosure of return information is made, to permit an inspection of the whistleblower's or the legal representative's premises by the IRS relative to the maintenance of the return information disclosed under these regulations and, upon completion of services as described in the written contract with the IRS, to dispose of all return information by returning the return information, including any and all copies or notes made, to the IRS, or to the extent that it cannot be returned, by destroying the information in a manner consistent with prescribed requirements.

(4) If the IRS determines that any whistleblower, or the legal representative of a whistleblower, who has access to return information under this section, has failed to, or does not, satisfy the prescribed requirements, the IRS, using the procedures described in the regulations under section 6103(p)(7), may take any action it deems necessary to ensure that the prescribed requirements are or will be satisfied, including—

(i) Suspension of further disclosures of return information by the IRS to the whistleblower and, if applicable, the legal representative of the whistleblower, until the IRS determines that the conditions and requirements have been or will be satisfied; and

(ii) Suspension or termination of any duty or obligation arising under the contract with the IRS.

(e) *Definitions.* For purposes of this section—

(1) The term *Treasury Department* includes the IRS and the Office of the Chief Counsel for the IRS.

(2) The term *whistleblower* means an individual who provides information to the IRS regarding violations of the tax laws or related statutes and submits a claim for an award under section 7623 with respect to the information.

(3) The term *legal representative* means any individual who is a member in good standing in the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia, and who has a written power of attorney executed by the whistleblower.

(f) *Effective/applicability date.* This section is applicable on March 15, 2011.

[T.D. 9516, 76 FR 13882, Mar. 15, 2011]

§ 301.6103(p)(2)(B)-1 Disclosure of returns and return information by other agencies.

(a) *General rule.* Subject to the requirements of paragraphs (b), (c), and (d) of this section, returns or return information that have been obtained by a Federal, state or local agency, or its agents or contractors, in accordance with section 6103 (the first recipient) may be disclosed by the first recipient to another recipient authorized to receive such returns or return information under section 6103 (the second recipient).

(b) *Approval by Commissioner.* A disclosure described in paragraph (a) of this section may be made if the Commissioner of Internal Revenue (the Commissioner) determines, after receiving a written request under this section, that such returns or return information are more readily available from the first recipient than from the Internal Revenue Service (IRS). The disclosure authorization by the Commissioner shall be directed to the head of the first recipient and may contain such conditions or restrictions as the Commissioner may prescribe. The disclosure authorization may be revoked by the Commissioner at any time.

(c) *Requirements and restrictions.* The second recipient may receive only returns or return information as authorized by the provision of section 6103 applicable to such second recipient. Any returns or return information disclosed may be used by the second recipient only for a purpose authorized by and subject to any conditions imposed by section 6103 and the regulations thereunder, including, if applicable, safeguards imposed by section 6103(p)(4).

(d) *Records and reports of disclosure.* The first recipient shall maintain to

the satisfaction of the IRS a permanent system of standardized records regarding such disclosure authorization described in paragraph (a) of this section and any disclosure of returns and return information made pursuant to such authorization, and shall provide such information as prescribed by the Commissioner in order to enable the IRS to comply with its obligations under section 6103(p)(3) to keep accountings for disclosures and to make annual reports of disclosures to the Joint Committee on Taxation. The information required for reports to the Joint Committee on Taxation must be provided within 30 days after the close of each calendar year. The requirements of this paragraph do not apply to the disclosure of returns and return information as provided by paragraph (a) of this section which, had such disclosures been made directly by the IRS, would not have been subject to the recordkeeping requirements imposed by section 6103(p)(3)(A).

(e) *Effective date.* This section is applicable on January 21, 2003.

[T.D. 9036, 68 FR 2696, Jan. 21, 2003]

§ 301.6103(p)(4)-1 Procedures relating to safeguards for returns or return information.

For security guidelines and other safeguards for protecting returns and return information, see guidance published by the Internal Revenue Service. For procedures for administrative review of a determination that an authorized recipient has failed to safeguard returns or return information, see § 301.6103(p)(7)-1.

[T.D. 9445, 74 FR 6830, Feb. 11, 2009]

§ 301.6103(p)(7)-1 Procedures for administrative review of a determination that an authorized recipient has failed to safeguard returns or return information.

(a) *In general.* Notwithstanding any section of the Internal Revenue Code (Code), the Internal Revenue Service (IRS) may terminate or suspend disclosure of returns and return information to any authorized recipient specified in section (p)(4) of section 6103, if the IRS determines that:

(1) The authorized recipient has allowed an unauthorized inspection or

disclosure of returns or return information and that the authorized recipient has not taken adequate corrective action to prevent the recurrence of an unauthorized inspection or disclosure; or

(2) The authorized recipient does not satisfactorily maintain the safeguards prescribed by section 6103(p)(4), and has made no adequate plan to improve its system to maintain the safeguards satisfactorily.

(b) *Notice of IRS's intention to terminate or suspend disclosure.* Prior to terminating or suspending authorized disclosures, the IRS will notify the authorized recipient in writing of the IRS's preliminary determination and of the IRS's intention to discontinue disclosure of returns and return information to the authorized recipient. Upon so notifying the authorized recipient, the IRS, if it determines that tax administration otherwise would be seriously impaired, may suspend further disclosures of returns and return information to the authorized recipient pending a final determination by the Commissioner or a Deputy Commissioner described in paragraph (d)(2) of this section.

(c) *Authorized recipient's right to appeal.* An authorized recipient shall have 30 days from the date of receipt of a notice described in paragraph (b) of this section to appeal the preliminary determination described in paragraph (b) of this section. The appeal shall be made directly to the Commissioner.

(d) *Procedures for administrative review.* (1) To appeal a preliminary determination described in paragraph (b) of this section, the authorized recipient shall send a written request for a conference to: Commissioner of Internal Revenue (Attention: SE:S:CLD:GLD), 1111 Constitution Avenue, NW., Washington, DC 20224. The request must include a complete description of the authorized recipient's present system of safeguarding returns or return information received by the authorized recipient (and its authorized contractors or agents, if any). The request must